

1 WILLIAM R. TAMAYO -- #084965 (CA)
 2 JONATHAN T. PECK -- #12303 (VA)
 3 CINDY O'HARA -- #114555 (CA)
 EQUAL EMPLOYMENT OPPORTUNITY
 COMMISSION
 San Francisco District Office
 4 350 The Embarcadero, Suite 500
 San Francisco, California 94105-1260
 5 Telephone: (415) 625-5653
 6 Attorneys for Plaintiff

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 RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA


E-filing

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UNITED STATES DISTRICT COURT
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NORTHERN DISTRICT OF CALIFORNIA

11 EQUAL EMPLOYMENT OPPORTUNITY
 COMMISSION,
 12 Plaintiff,
 13 v.
 14 UNITED PARCEL SERVICE, INC.,
 15 Defendant.
 16

C 12 4723

Civil Action No.

DMR

COMPLAINT

Civil Rights - Employment
 Discrimination

DEMAND FOR JURY TRIAL

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NATURE OF THE ACTION

18 This is an action under Title VII of the Civil Rights Act of 1964, as amended by
 19 Title I of the Civil Rights Act of 1991, to correct unlawful employment practices on the
 20 basis of national origin/religion and retaliation and to provide appropriate relief to
 21 Charging Party Talal Alfour who was adversely affected by such practices. Charging
 22 Party Alfaour, a Jordanian Muslim Arab, was discriminated against because of his
 23 national origin and religion, and was retaliated against for engaging in protected
 24 activity.

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JURISDICTION AND VENUE

26 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§451, 1331,
 27 1337, 1343, and 1345. This action is authorized and instituted pursuant to Section
 28 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C.

1 §2000e-5(f)(1) and (3) (Title VII) and Section 102 of the Civil Rights Act of 1991, 42 U.S.C.
2 §1981a.

3 2. Venue is proper in the United States District Court for the Northern
4 District of California because the unlawful employment practices alleged herein were
5 committed in the State of California, in the County of San Mateo, California, within the
6 jurisdiction of the United States District Court for the Northern District of California.
7 Venue is therefore proper in the United States District Court for the Northern District of
8 California.

INTRADISTRICT ASSIGNMENT

10 3. This action is appropriate for assignment to the San Francisco/Oakland
11 Division of this Court because the unlawful employment practices alleged were
12 committed within San Mateo County, within the jurisdiction of the San
13 Francisco/Oakland Division.

PARTIES

15 4. Plaintiff Equal Employment Opportunity Commission (Commission) is the
16 agency of the United States of America charged with the administration, interpretation
17 and enforcement of Title VII, and is expressly authorized to bring this action by Section
18 706(f)(1) and (3) of Title VII, §2000e-5(f)(1) and (3).

19 5. Defendant United Parcel Service, Inc. (Defendant) is a Delaware
20 corporation, doing business in the State of California, in the County of San Mateo, and
21 has continuously had at least 15 employees.

22 6. At all relevant times, Defendant has been an employer engaged in an
23 industry affecting commerce, within the meaning of Section 701(b), (g), and (h) of Title
24 VII, 42 U.S.C. §2000e(b), (g), and (h).

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STATEMENT OF CLAIMS

FIRST CLAIM FOR RELIEF

Violation of Title VII: Discrimination Based on National Origin and Religion

4 7. More than thirty days prior to the institution of this lawsuit, Charging
5 Party Talal Alfaour (Charging Party) filed a charge with Plaintiff Commission alleging
6 violations of TitleVII of the Civil Rights Act of 1964 by Defendant UPS. All conditions
7 precedent to the institution of this lawsuit have been fulfilled.

8. Since at least 2004, Defendant has engaged in employment practices in
9 violation of §703(a) of Title VII, 42 U.S.C. §2000e-2(a) by subjecting Charging Party to
10 discrimination, including but not limited to discriminatory harassment, on the basis of
11 his national origin and religion. Said discrimination was perpetrated by both
12 supervisors and co-workers of Charging Party, and included but was not limited to
13 adverse work assignments, assignments to more difficult job tasks, excessive scrutiny of
14 his work, and derogatory comments to and slurs against Charging Party because of his
15 Arab national origin and Muslim religion. Examples of such comments and slurs
16 include but are not limited to repeatedly calling Charging Party "Osama Bin Laden,"
17 "Taliban," and "Doctor Bomb;" telling Charging Party that he could not work with
18 hazardous materials because he "would blow the place up," and asking Charging Party
19 if he had placed a bomb under the time clock, or had a bomb under his jacket; throwing
20 projectiles at Charging Party, including rocks, bottles, a metal rod, and a metal hook
21 used to move boxes; placing a dead mouse in Charging Party's lunch bag; and
22 subjecting Charging Party to other treatment not perpetrated against employees not of
23 his national origin or religion.

24 9. The effect of the actions complained of in paragraph 8 above has been to
25 deprive Charging Party of equal employment opportunities and otherwise adversely
26 affect his status as an employee because of his national origin and religion.

27 10. The unlawful employment practices complained of in paragraph 8 above
28 were intentional.

1 11. The unlawful employment practices complained of in paragraph 8 above
2 were done with malice or with reckless indifference to the federally protected rights of
3 Charging Party.

SECOND CLAIM FOR RELIEF

Violation of Title VII: Discrimination Based on Retaliation

6 12. Plaintiff Commission hereby incorporates the allegations of paragraphs 1
7 through 8 above as though fully set forth herein.

8 13. On multiple occasions from 2004 to present, Charging Party opposed the
9 discriminatory actions taken against him based on his national origin and/or religion
10 through complaints directly to his supervisors and other management officials of
11 Defendant, through the filing of union grievances, and through the filing of three
12 Charges of Discrimination with Plaintiff Commission.

13 14. As a result of the actions referenced in paragraph 14, Charging Party was
14 retaliated against in violation of Section 704(a) of Title VII, 42 U.S.C. §2000e-3(a). Said
15 retaliation included but was not limited to involuntary transfers, adverse work
16 assignments, assignments to more difficult job tasks, excessive scrutiny of his work,
17 escalation of harassment, and other adverse actions.

18 15. The effect of the actions complained of in paragraphs 13 and 14 above has
19 been to deprive Charging Party of equal employment opportunities and otherwise
20 adversely affect his status as an employee because of his national origin and religion.

16. The unlawful employment practices complained of in paragraphs 13 and
14 above were intentional.

23 17. The unlawful employment practices complained of in paragraphs 13 and
24 14 above were done with malice or with reckless indifference to the federally protected
25 rights of Charging Party.

PRAYER FOR RELIEF

27 Wherefore, the Commission respectfully requests that this Court:

28 A. Grant a permanent injunction enjoining Defendant, its officers, agents,

1 successors, assigns, and all persons in active concert or participation with it, from
2 engaging in discrimination based on national origin and/or religion and retaliation.

3 B. Order Defendant to institute and carry out policies, practices, and
4 programs which prohibit discrimination based on national origin and/or religion and
5 retaliation, and which eradicate the effects of its unlawful employment practices.

6 C. Order Defendant to make whole Charging Party by providing
7 compensation for past and future pecuniary losses resulting from the unlawful
8 employment practices complained of above, including but not limited to such out-of-
9 pocket expenses as medical care necessitated by Defendant's unlawful conduct, in
10 amounts to be determined at trial.

11 D. Order Defendant to make whole Charging Party by providing
12 compensation for past and future nonpecuniary losses resulting from the unlawful
13 practices complained of above including, but not limited to, emotional pain and
14 suffering, mental anguish, inconvenience, loss of enjoyment of life and humiliation, in
15 amounts to be determined at trial.

16 F. Order Defendant to pay Charging Party punitive damages for the
17 malicious and reckless conduct described above, in amounts to be determined at trial.

18 G. Grant such further relief as the Court may deem just and proper in the
19 public interest.

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1 H. Award the Commission its costs of this action.

2 **DEMAND FOR JURY TRIAL**

3 The Commission demands a jury trial on all questions of fact raised by its
4 complaint.

5 P. DAVID LOPEZ
6 General Counsel

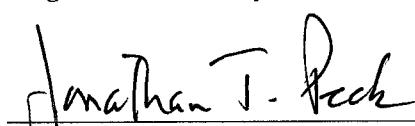
7 JAMES L. LEE
8 Deputy General Counsel

9 GWENDOLYN YOUNG REAMS
10 Associate General Counsel

11 Date: September 11, 2012

12 
13 WILLIAM R. TAMAYO
14 Regional Attorney

15 Date: September 11, 2012

16 
17 JONATHAN PECK
18 Supervisory Trial Attorney

19 Date: September 11, 2012

20 
21 CINDY O'HARA
22 Senior Trial Attorney

23 Equal Employment Opportunity
24 Commission
25 San Francisco District Office
26 350 The Embarcadero, Suite 500
27 San Francisco, CA 94105-1260